

### Part 3. Notarial Acts, Powers, and Limitations.

#### **§ 10B-20. Powers and limitations.**

- (a) A notary may perform any of the following notarial acts:
  - (1) Acknowledgments.
  - (2) Oaths and affirmations.
  - (3) Repealed by Session Laws 2006-59, s. 6, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
  - (4) Verifications or proofs.
- (b) A notarial act shall be attested by all of the following:
  - (1) The signature of the notary, exactly as shown on the notary's commission.
  - (2) The legible appearance of the notary's name exactly as shown on the notary's commission. The legible appearance of the name may be ascertained from the notary's typed or printed name near the notary's signature or from elsewhere in the notarial certificate or from the notary's seal if the name is legible.
  - (3) The clear and legible appearance of the notary's stamp or seal.
  - (4) A statement of the date the notary's commission expires. The statement of the date that the notary's commission expires may appear in the notary's stamp or seal or elsewhere in the notarial certificate.
- (c) A notary shall not perform a notarial act if any of the following apply:
  - (1) The principal or subscribing witness is not in the notary's presence at the time the notarial act is performed. However, nothing in this Chapter shall require a notary to complete the notarial certificate attesting to the notarial act in the presence of the principal or subscribing witness.
  - (2) The principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence.
  - (2a) The credible witness is not personally known to the notary.
  - (3), (4) Repealed by Session Laws 2006-59, s. 8, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
  - (5) The notary is a signer of, party to, or beneficiary of the record, that is to be notarized. However, a disqualification under this subdivision shall not apply to a notary who is named in a record solely as (i) the trustee in a deed of trust, (ii) the drafter of the record, (iii) the person to whom a registered document should be mailed or sent after recording, or (iv) the attorney for a party to the record, so long as the notary is not also a party to the record individually or in some other representative or fiduciary capacity. A notary who is an employee of a party shall not be disqualified under this subdivision solely because of the notary's employment by a party to the record or solely because the notary owns stock in a party to the record.
  - (6) The notary will receive directly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in G.S. 10B-31, other than fees or other consideration paid for services rendered by a licensed attorney, a licensed real estate broker or salesperson, a motor vehicle dealer, or a banker.

- (d) A notary may certify the affixation of a signature by mark on a record presented for notarization if:
- (1) The mark is affixed in the presence of the notary;
  - (2) The notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of undersigned notary"; and
  - (3) The notary notarizes the signature by performing an acknowledgment, oath or affirmation, jurat, or verification or proof.
- (e) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person as his or her designee, who shall be a disinterested party, to sign on the principal's behalf pursuant to the following procedure:
- (1) The principal directs the designee to sign the record in the presence of the notary and two witnesses unaffected by the record;
  - (2) The designee signs the principal's name in the presence of the principal, the notary, and the two witnesses;
  - (3) Both witnesses sign their own names to the record near the principal's signature;
  - (4) The notary writes below the principal's signature: "Signature affixed by designee in the presence of (names and addresses of principal and witnesses)"; and
  - (5) The notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.
- (f) A notarial act performed in another jurisdiction in compliance with the laws of that jurisdiction is valid to the same extent as if it had been performed by a notary commissioned under this Chapter if the notarial act is performed by a notary public of that jurisdiction or by any person authorized to perform notarial acts in that jurisdiction under the laws of that jurisdiction, the laws of this State, or federal law.
- (g) Persons authorized by federal law or regulation to perform notarial acts may perform the acts for persons serving in or with the Armed Forces of the United States, their spouses, and their dependents.
- (h) The Secretary and register of deeds in the county in which a notary qualified may certify to the commission of the notary.
- (i) A notary public who is not an attorney licensed to practice law in this State who advertises the person's services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.
- (j) A notary public who is not an attorney licensed to practice law in this State is prohibited from representing or advertising that the notary public is an "immigration consultant" or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the Board of Immigration Appeals pursuant to Title 8, Part 292, section 2(a-e) of the Code of Federal Regulations (8 C.F.R. § 292.2(a-e)).
- (k) A notary public who is not an attorney licensed to practice law in this State is prohibited from rendering any service that constitutes the unauthorized practice of law. A nonattorney notary shall not assist another person in drafting, completing, selecting, or understanding a record or transaction requiring a notarial act.

(l) A notary public required to comply with the provisions of subsection (i) of this section shall prominently post at the notary public's place of business a schedule of fees established by law, which a notary public may charge. The fee schedule shall be written in English and in the non-English language in which the notary services were solicited and shall contain the notice required in subsection (i) of this section, unless the notice is otherwise prominently posted at the notary public's place of business.

(m) If notarial certificate wording is not provided or indicated for a record, a notary who is not also a licensed attorney shall not determine the type of notarial act or certificate to be used. This does not prohibit a notary from offering the selection of certificate forms recognized in this Chapter or as otherwise authorized by law.

(n) A notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(o) Before signing a notarial certificate and except as provided in this subsection, a notary shall cross out or mark through all blank lines or spaces in the certificate. However:

- (1) Notwithstanding the provisions of this section, a notary shall not be required to complete, cross out, or mark through blank lines or spaces in the notary certificate form provided for in G.S. 47-43 indicating when and where a power of attorney is recorded if that recording information is not known to the notary at the time the notary completes and signs the certificate;
- (2) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not affect the sufficiency, validity, or enforceability of the certificate or the related record; and
- (3) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not be grounds for a register of deeds to refuse to accept a record for registration. (1866, c. 30; 1879, c. 128; Code, s. 3307; Rev., ss. 2350, 2351a, 2352; C.S., ss. 3175, 3177, 3179; 1951, c. 1006, s. 1; 1953, c. 836; 1961, c. 733; 1967, c. 24, s. 22; c. 984; 1973, c. 680, s. 1; 1977, c. 375, s. 5; 1991, c. 683, s. 2; 1998-228, s. 5; 2001-450, s. 2; 2001-487, s. 121; 2005-391, s. 4; 2006-59, ss. 6-12; 2006-199, s. 1; 2011-183, s. 7; 2013-204, s. 1.1.)